

APPLICANTS:
Charles and Joanne Oliver
300 PM, LLC

REQUEST:
Modification of Condition No. 5 in
Board of Appeals Case No. 5374

HEARING DATE: March 31, 2004

BEFORE THE
ZONING HEARING EXAMINER

FOR HARFORD COUNTY

BOARD OF APPEALS

Case No. 5405

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Charles & Joanne Oliver and 300 PM, LLC

LOCATION: 300 Patterson Mill Road, Bel Air
Tax Map: 49 / Grid: 4E / Parcel: 791
First Election District

ZONING: R1 / Urban Residential

REQUEST: Modification of Condition No. 5 in Case No. 5374 to allow the remaining
“Lands of Oliver” to be combined with Lot 5 simultaneously with recordation
of Lots 1 – 5.

TESTIMONY AND EVIDENCE OF RECORD:

For the Applicant testified William Harrison, who identified himself as a principal of 300 PM, LLC, contract purchaser of the subject property. Mr. Harrison explained that this property was originally subject to a hearing on October 15, 2003 at which time the Applicants were seeking a variance to create four lots on a panhandle, instead of the one lot allowed by Code. In that Decision, a copy of which is in the file, the Board found that the property was unique, being within the development envelope, and serviced by public sewer and water, yet heavily wooded and containing sensitive environmental features. The Applicants in that case stated that they would only be developing five lots total, instead of the twelve allowed by Code, due to developmental and environmental constraints. The Applicants testified in that case that their desire was to maintain as much of the property in its current natural state as possible.

The Board of Appeals approved the request and conditioned approval upon the following: “That the remaining lands of Oliver shall be combined with the lands of Harrison (Parcel 205) simultaneously with the recordation of these lots.” That condition was based upon statements made during the October 15, 2003 hearing by the Applicant. The combination of the open space with the Lands of Harrison was apparently not an issue raised during that case.

The Applicant is now before the Board requesting that condition be modified to allow the remaining lands to be combined with Lot 5, instead of with the Lands of Harrison (the Applicant).

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Mr. Harrison explained that originally the undevelopable open space, which is shown in detail on that Plat entitled “Proposed Subdivision Exhibit (5 Lot) Lands of Charles M. Oliver and Wife”, in the file marked as Attachment No. 3, was to have been attached to Mr. Harrison’s lot. His intent is now to attach the open space to lot 5. Mr. Harrison explained that his testimony and evidence presented at the last hearing remain correct, that the change requested was not substantive but merely a technical change, and is motivated by development constraints of the site. The open space will continue to be under the ownership of a property owner in the new subdivision, and it will not be capable of further subdivision.

The Harford County Department of Planning and Zoning recommends approval of the proposed modification.

There was no testimony or evidence presented in opposition to the requested modification.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

It is found that the modification requested is a minor and very narrowly drawn one. The Applicant requests modification of a previously imposed condition which will have no substantive impact upon the relief requested. Instead of the open space on the subject property being connected to the lands of Mr. and Mrs. Harrison, it is to be connected to the lands of Lot 5, and, thereafter, owned and controlled by the owner of proposed Lot 5. The modification will have no impact upon the surrounding neighbors or neighborhood, and it does not raise any issue under Limitations, Guides and Standards, Section 267-9I.

CONCLUSION:

The requested modification is approved, subject the following conditions:

1. The Applicants shall submit a detailed preliminary plan for review and approval through the Department of Planning and Zoning.
2. A common drive shall be utilized by all five lots. The Applicants shall prepare a common drive agreement to be reviewed and approved with the final plat.
3. The Applicants shall obtain all necessary permits and inspections for the development of the subject property.
4. A final plat shall be submitted to the Department of Planning and Zoning for review and recordation in the County Land Records.
5. The lands previously depicted as “remaining” shall be shown on the preliminary plan and final plat as part of Lot 5.

Date: April 20, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner